THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.6261 of 2006

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the respondents in not considering the representation of the petitioners dated 2.2.2006 for renewing/issuing fresh authorization in the light of Circular Rc.No.CCS.Ref.No.N5/8777/04 issued by the first respondent as arbitrary and illegal.

It appears, all the petitioners are authorized fair price shop dealers of their respective shops in Sirpur town, Adilabad district. While so, a notification dated 1.5.2004 was issued by the second respondent calling applications for allotment of fair price shops. Aggrieved by the same, petitioners in fact earlier filed W.P.No.8979 of 2004. However, the same was dismissed and thereafter they have carried the matter in appeal before the Division Bench being W.A.No.2222 of 2005. At the time of admission of the writ appeal, status quo order was granted, but thereafter the said appeal was withdrawn by the appellants seeking permission of the Court to file fresh writ petition. Hence, the writ petition.

It is the case of the petitioners that they have made trade deposits for the year 2004-05 and therefore the dealerships were subsisting and during subsisting of dealerships, the impugned notification was issued for filling up the vacancies without canceling or suspending the authorizations of the petitioners, which is not permissible in law. The renewal of authorization is altogether different from cancellation. Only when the authorization is cancelled or suspended, probably the respondents are at liberty to fill up such vacancies after notifying the same as per law, but not in a case of this nature.

There is no necessity of going into all the details.

In fact the first respondent has issued Circular in Rc.No. CCS.Ref.No.N5/8777/2004 in this regard, which reads as under:

> "After careful examination of the matter, it is clarified that as per sub-clause 5(iii) of clause 5 of A.P.S.P.D.S. (Control) Order, 2001, if an application for renewal of authorization is not received within one month after expiry of its validity, the authorization shall cease to be valid and the entire security deposit shall be forfeited. If the dealer is duly appointed by the competent authority and his authorization ceased to be valid, he has to apply for authorization afresh which will be accorded by the competent authority as in the case of grant of new/fresh authorization. Thus, interference that the F.P. Shop dealership has to be re-notified is totally wrong. The appointment of F.P. shop dealer is different from grant of authorization and if authorization ceased to be valid, his appointment cannot be considered as invalid. Therefore there is nothing wrong in issue of a fresh authorization to a dealer after forfeiture of the entire security

deposit and after getting the new security deposit and any fee as applicable.

All the Collectors/Chief Rationing Officer, Hyderabad are requested to follow these instructions scrupulously."

In spite of making representations on 2.2.2006, the cases of the petitioners were not considered for renewal/issue of fresh authorization as per the above instructions.

In view of the above, without expressing any opinion on merits, the second respondent is directed to consider the representation purported to have been made by the petitioners on 2.2.2006 in the light of the Circular Rc.No.CCS.Ref.No.N5/8777/2004 issued by the first respondent and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. Till such time, status quo as on today shall continue.

The writ petition is accordingly disposed of. No order as to costs.

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C.V.RAMULU, J

Date: 26.12.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

26.12.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.6261 of 2006

Date: 26th December, 2006

Between:

Bandaru Bali Ram & others.

.. Petitioners

And

The Commissioner, Civil Supplies,

Department of Civil Supplies,

Government of A.P., Hyderabad

and others.

.. Respondents